



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

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September 02, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

TECHNICAL ORDINANCE CHANGE FOR THE TERMINATION PAY PICK UP PLAN (ALL DISTRICTS) (3 VOTES)

SUBJECT

This letter and accompanying technical ordinance change will amend the definition of "Leased Employee" in the plan document for the now frozen Termination Pay Pick Up Plan (TPP). This change is required as a condition of an Internal Revenue Service ruling on the initial qualified status of the Plan.

IT IS RECOMMENDED THAT THE BOARD:

Approve the technical change as set forth in the accompanying ordinance amending Title 5 - Personnel of the Los Angeles County Code Section 5.18.020.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On April 21, 2014, the Internal Revenue Service issued a Favorable Determination Letter (FDL) approving the initial qualified status of the TPP. The FDL was requested in 2005. The FDL is contingent on the Board adopting the Plan amendment in the accompanying ordinance. The technical ordinance change described herein defines a "Leased Employee," instead of incorporating the definition by reference to Internal Revenue Code 414(n). While the change has no effect on Plan administration, the Internal Revenue Service requires it be made as a condition of the FDL.

Implementation of Strategic Plan Goals

The recommended changes are consistent with the County's Strategic Plan Goal of Organizational

Effectiveness and demonstrate the Plan's adherence to regulatory compliance.

FISCAL IMPACT/FINANCING

The aforementioned technical change is administrative in nature and has no fiscal impact to the County or TPP participants and beneficiaries.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The TPP was established as a tax-favored defined contribution plan that must comply with existing tax law and regulatory requirements. The Plan has been effectively frozen since January 2007. County Code Chapter 5.18 serves as the federally required Plan document which must be amended when necessary to maintain the Plan's tax-favored status and alignment with administrative practices. Under County Code Sections 5.18.430 and 5.18.440, the Board of Supervisors may, without consent of any Plan participant, beneficiary, or other person, amend the Plan in whole or in part, provided that the amendment does not reduce or impair the rights of any Participant or Beneficiary to the vested interest in their accounts, and provided that the amended provisions are not subject to negotiations with representatives of Represented Employees. The proposed ordinance change has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The adoption of the attached ordinance change complies with a condition of the FDL on the initial qualified status of the TPP, thereby allowing the Plan to continue operating in the best interest of the Plan participants and beneficiaries.

The Honorable Board of Supervisors

9/2/2014

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. T. Fujioka', with a long horizontal line extending to the right.

WILLIAM T FUJIOKA

Chief Executive Officer

WTF:BC:JA:MTK

SM:KBG:mst

Enclosures


c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Human Resources
Termination Pay Pick Up Plan Administrative
Committee
Treasurer and Tax Collector

ANALYSIS

This ordinance amends Title 5 - Personnel of the Los Angeles County Code by amending a provision in Chapter 5.18 relating to Termination Pay Pick Up Plan to conform with federal law. The amendment will define a "Leased Employee" instead of incorporating the definition by reference to Internal Revenue Code 414(n).

RICHARD D. WEISS
Acting County Counsel

By: _____


RICHARD D. BLOOM
Principal Deputy County Counsel
Labor & Employment Division

RDB:mst

Requested: 06-05-14
Revised: 08-06-14

ORDINANCE NO. _____

An ordinance amending Title - 5 Personnel of the Los Angeles County Code relating to a technical change that is required to maintain the tax-favored status of the Termination Pay Pick Up Plan.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 5.18.020 is hereby amended to read as follows:

5.18.020 Definitions.

...

22. ~~"Leased Employee" means any person described in Code section 414(n)(2), who shall be treated as an Employee solely for the purposes of the plan qualification requirements listed in Code section 414(n)(3), unless the safe harbor set forth in Code section 414(n)(5) applies.~~ who is not an employee of the County and who provides services to the County if (i) such services are provided pursuant to an agreement between the County and any other person, (ii) such person has performed such services for the County on a substantially full-time basis for a period of at least one year, and (iii) such services are performed under primary direction or control by the County.

...

SECTION 2. Pursuant to Government Code Section 25123, this ordinance shall become effective 30 days from the date of final passage.

[518020KBGCEO]